

Aren't Transgender Humans: A Deep Analysis India

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ABSTRACT:

The third gender better known as Transgender in India have existed in every culture, race, class and religion since, the inception of human life has been recorded and analyzed. But then why our society doesn't consider them as humans? Why are they neglected by people? Just because they differ in some ways from all of us. If god has made them then who are we to neglect them. We should keep ourselves in their place and think to what all they have gone through and still are going and then think what the society do with them is correct? Everyone comes into life for a purpose, not for their own but to fulfill purpose in some other's life sometimes. Even transgender are humans like us and we must respect them and their feelings. After all, humanity is above all. But still it is sad to hear and see; we the people who are living in 21st century have all such disbelief which leads us to behave misappropriately with someone. Why we forget that we are also humans, we must know to care for others as well. Even transgender are humans but still they are shunned by family and society, they don't have access to education and several other services, they don't have their basic civil rights, which is against humanity. The change to this issue can only be bring back by the upcoming generation. We should make our people and society realize that transgender are also humans and we should behave with them as normally as we behave with those persons who are not transgender. Because each and every person in this universe is unique and an integral part of nature made by god. So, we must respect to this unique creation of god and make them as a part of our society too.

I. INTRODUCTION

Transgender have faced issues and problems in their life from starting onwards. As a third gender better known as transgender. These are those people who have a gender identity or gender expression that differs from their assigned sex¹ and thus, they differ from the stereotype of how men and women normally are². Transgender does not include sexual orientation or physical sex characteristics. Thus, transgender people encompass those people whose identity and behavior do not adhere to the stereotypical gender norms. They may be lesbian, gay, bisexual, transsexual, transvertite, or gender queer³. In short known as LGBTQ community. They constitute the marginalized section of the society in India and thus, face legal, social as well as economic difficulties⁴. Our society ignores them; they don't consider them as humans. Transgender are somewhat discriminated as people of ST, SC, OBC's are discriminated by our society. This should not happen in India at least now as we are living in 21st century.

¹ <https://en.wikipedia.org/wiki/Transgender>

² By Viji Athreye, The Life Of Transgenders In India, (NOVEMBER 27,2015), <https://www.mapsofindia.com/my-india/government/the-life-of-transgenders#>

³ By Viji Athreye, The Life Of Transgenders In India, (NOVEMBER 27,2015), <https://www.mapsofindia.com/my-india/government/the-life-of-transgenders#>

⁴ By Viji Athreye, The Life Of Transgenders In India, (NOVEMBER 27,2015), <https://www.mapsofindia.com/my-india/government/the-life-of-transgenders#>

Now, some changes should be made pertaining to these issues. During, medieval period, when the Mughal emperors were ruling India, we read in history that during the reign of Akbar, transgender or in old times called as Hijras or Kinnars were working under them, especially for the Begums of Akbar, for their safety. If we can keep them for work under us, then why cannot we treat them as humans?

Our society's typical stereotype psychological behavior should be changed now.

As, per 2011 Census, population of transgender in India is upto 4.9 lakh something⁵. May be in the next census the population will increase more or may be it has been decreased. Next Census of India will give us the correct data. As per previous Census the highest proportion of the third gender population about 28% was identified in U.P., followed by 9% in Andhra Pradesh, 8% each in Maharashtra and Bihar, over 6% in both M.P. and West Bengal, 4% in Tamil Nadu, Karnataka and Odisha. Rajasthan accounted for over 3% of the total transgender population and Punjab for 2%⁶. Earlier they were not considered as a part of society also but at least they are upto some extent have become part of our society.

This is just the beginning and we are proud that the census could draw out part of the truth and establish that the transgender community exists by bringing an attention to this⁷.

We all face certain problems in our life, sometimes we even get pissed off if some of our work is not done or if in case the Government don't cooperate with us. Then think what about transgender because they are facing many problems in their lives since, their birth. We should keep us in their places and then think on this. We people sometimes become too selfish, that we only think of ourselves, we don't think about others, we don't care about others or their feelings. We think that everything in this universe is meant to be for 'US', or is meant for 'US'. The usage of this word 'US' should get replaced by 'WE ALL'. As, including transgender we all have basic rights to live life, as 'WE ALL', are humans. But still the people of our society neglects them, humiliates them.

Is this Justified?

There is no point in making laws, rules or regulations by the government if still the people of our society don't follow them. Still, they continue with their same stereotype thinking. Then there is no point in making certain laws pertaining to the issue of transgender.

⁵ REMA NAGARAJAN, First Count Of Third Gender In Census: 4.9 Lakh, (May 30, 2014, 1:47 IST), <https://Timesofindia.Indiatimes.Com/India/First-Count-Of-Third-Gender-In-Census-4-9-Lakh/Articleshow/35741613.Cms>

⁶ REMA NAGARAJAN, First Count Of Third Gender In Census: 4.9 Lakh, (May 30, 2014, 1:47 IST), <https://Timesofindia.Indiatimes.Com/India/First-Count-Of-Third-Gender-In-Census-4-9-Lakh/Articleshow/35741613.Cms>

⁷ REMA NAGARAJAN, First Count Of Third Gender In Census: 4.9 Lakh, (May 30, 2014, 1:47 IST), <https://Timesofindia.Indiatimes.Com/India/First-Count-Of-Third-Gender-In-Census-4-9-Lakh/Articleshow/35741613.Cms>

II. PROBLEMS FACED BY TRANSGENDER IN INDIA⁸

1. **DISCRIMINATION** - They are discriminated in certain terms of education, employment, health, justice, etc. They are even shunned by their family members and society. And even if they live with their family, discrimination prevails. Discrimination has always been the root cause in our society from ancient period onwards. In spite of taking necessary measures or steps by Government still even today certain sections of the society including transgender faces discrimination.
2. **DISRESPECT**- They are disrespected in each and every aspect of their life. But there are certain cases when they are not disrespected, first when they come to bless a newly wedded couple or when a child is born.
3. **DOWNTRODDEN**- They are treated badly and oppressed by those who are in power. They are prone to struggle for social justice.
4. **PROSTITUTION**- They are forced to enter in the prostitution profession, sometimes even their parents are involved to put them behind this profession.
5. **FORCED TO LEAVE PARENTAL HOME**- When their identity is identified they are forced to leave their family and home. Society makes it difficult for them to live; they think that transgender cannot be a part and parcel of the society. Many a times even their parent's don't support them because they feel like insulting to live with them.
6. **RESTRICTION IN ENTRY**- They get restriction for entry at public places like temples, hotels, theatres, etc. They are not allowed to use these places like other human beings do.
7. **PHYSICALLY ABUSE**- They are physically tortured and verbally get abused by the society and some people even rape them. Such a worst condition.
8. **LACK OF EDUCATIONAL FACILITIES**- They don't get proper education facilities like normal human beings. They are treated as differently who don't need education.
9. **HIV-AIDS PROBLEMS**- Transgender generally belongs to lower, socio-economic background; due to this they have low literacy level. They don't have proper knowledge about those diseases which can be sexually transmitted. They have improper health conditions due to this.
10. **SOCIALLY EXCLUDED FROM THE SOCIETY**- Discrimination, disrespecting them, not providing proper education, health conditions, restrictive entry to certain public places, etc. All these things come in the social exclusion. Because they are excluded from certain activities in the society.

⁸ DR. KHUSHBOO R. HOTCHANDANI, PROBLEMS OF TRANSGENDER IN INDIA: A STUDY FROM SOCIAL EXCLUSION TO SOCIAL INCLUSION, VOL.4, IRJHRSS, PG-73.

These are the certain problems which are faced by the transgender and there are certain more problems which we do not know but prevail and are faced alone by transgender.

III. CONSTITUTIONAL PROVISIONS IN INDIA

Like normal human beings even transgender have certain fundamental rights of our Indian Constitution.

ARTICLE 14⁹- “The state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India”. It involves two concepts- equality before law and equal protection of law. The first principle equality before law, means all persons are equal before law. Nobody is above law or below law. Dicey’s Rule of law is applicable in India. No rank, status, positions and condition shall be considered. All will be treated equal. The second concept- equal protection of law is positive in content; which means like shall be treated alike or equal law for equal persons. It denotes equality of treatment in equal circumstances without distinction of race, religion, wealth, social status or political influence. Because all persons are not equal by nature, therefore, they need different treatment. Therefore, legislature is entitled to make reasonable classification for purposes of legislation and treat all in one class on an equal footing. Article 14 ensures equality among equals. Its aim is to protect persons similarly placed against discriminatory treatment.

ARTICLE 15¹⁰- “The state cannot discriminate the citizens on the ground of religion, race, caste, sex and place of birth or any of them”. Every citizen has a right to access shops, public restaurants, hotels and places of public entertainment or the use of wells, tanks, bathing ghats, roads and places of public resort maintained out of state fund or dedicated to the use of the general public.

ARTICLE 19¹¹- This article gives freedom to the citizens of India. These freedoms are available to citizen, natural person and not to legal person like company, corporation etc. These various freedoms are necessary not only to promote certain basic rights of the citizens but also certain democratic values in, and the oneness and unity of the country. These 6 freedoms are as follows:

- Right to freedom of speech and expression- Article 19(1)(a)
- Right to assemble peacefully without arms- Article 19(1)(b)
- Right to form association or union-Article 19(1)(c)
- Right to move freely throughout the territory of India-Article 19(1)(d)
- Right to reside and settle in any part of the territory of India-Article 19(1)(e)

⁹ DR. DURGA DAS BASU, INTRODUCTION TO THE CONSTITUTION OF INDIA, Pg-95-101, 22nd Edition

¹⁰ DR. DURGA DAS BASU, INTRODUCTION TO THE CONSTITUTION OF INDIA, Pg-101-104, 22nd Edition

¹¹ DR. DURGA DAS BASU, INTRODUCTION TO THE CONSTITUTION OF INDIA, Pg-110-112, 22nd Edition

- Right to practice any profession, or to carry on any occupation, trade or business-Article 19 (1)(g)

ARTICLE 21¹²- Right to life and personal liberty. This article lays down that no person shall be deprived of life and personal liberty except procedure established by law. This article provides quality of life, right to livelihood, right to medical care, right to education, right to privacy, etc.

IV. FAMOUS CASE AROSE ON THIS ISSUE

NATIONAL LEGAL SERVICES AUTHORITY V. UNION OF INDIA¹³- In a landmark judgement on 15th April 2014, Supreme Court observed that the transgender communities, generally known as “hijras” in this country, are a section of Indian citizens who are treated by the society as an inferior. Therefore, it was held that from now onwards transgender will be considered as a third gender. They will have access to fundamental rights granted under the Indian Constitution like normal human beings. Moreover, the court also held that because transgender people were treated as socially and economically backward classes, they will be granted reservations to educational institutions and jobs.

NEED FOR REFORMS¹⁴ –

- Proper implementation of policies by the Government so, that it will have an inclusive approach towards the transgender.
- To protect their day- to -day problems of life which they faces daily.
- Legal rules and regulations must be properly framed.
- Criminal action must be taken against those who misbehave with the transgender.
- Strict action must be taken against those parents who leave their children or neglect them because of society.
- Awareness programme must be organized.
- Helpline services must be started for them.
- School and colleges should play a supportive role in this.

EXAMPLES OF SOME SUCCESSFUL TRANSGENDER WHO HAVE WRITTEN THEIR OWN STORIES WITH HARDWORK, DEDICATION AND PERSEVERANCE:

¹² DR. DURGA DAS BASU, INTRODUCTION TO THE CONSTITUTION OF INDIA, Pg-121-122, 22nd Edition

¹³ AIR 2014 SC 1863

¹⁴ DR. KHUSHBOO R. HOTCHANDANI, PROBLEMS OF TRANSGENDER IN INDIA: A STUDY FROM SOCIAL EXCLUSION TO SOCIAL INCLUSION, VOL.4, IRJHRSS, PG-73.

- 1) **LAXMI NARAYAN TRIPATHI¹⁵**- Laxmi was the eldest born who was assigned male at birth. After completing her schooling from Smt. Sulochanadevi Singhania School, she acquired an arts degree from Mumbai's Mithibai College and a post-graduate degree in Bharatnatyam. Laxmi has served on the boards of several NGO'S which conduct LGBT activist work. In 2002, she became president of the NGO DAI welfare Society; in 2007 she started her own organization, Astitiva. This organization works to promote the welfare of sexual minorities, their support and development. She is the first transgender person to represent Asia Pacific in the UN in 2008. She is also known as the main head or 'GURU', of all transgender in India.
- 2) **GAURI SAWANT¹⁶**- Sawant was born and raised in Pune. Her mother died when she was 9 years old and she was raised by her grandmother. Her father a police officer asked her to leave the house when she was 18. She is a transgender activist from Mumbai. She is the director of Sakshi Char Chowghi that helps transgender people and people with HIV/AIDS. She was featured in an ad by Vicks. She was made the goodwill ambassador of Election Commission in Maharashtra. Gauri has an adopted daughter, whom she adopted at the age of 4. Gauri said in an interview that she had adopted her after her biological mother, a sex worker who had died from AIDS, leaving her alone, to be sold in the sex-trafficking industry. She became the first transgender person to file a petition in the Supreme Court of India for adoption rights of transgender people.
- 3) **KALKI SUBRAMANIAM¹⁷**- With 2 master's degrees, Kalki is a social activist and a journalist. She also made her debut as an actress in the movie Narthaki-Life of a Transgender Woman. Kalki has also founded the Sahodari foundation which supports the transgender community.
- 4) **PADMINI PRAKASH¹⁸**- Padmini is a trained Kathak dancer and also a vocal artist. She was awarded the title of Miss Transgender of India. Padmini acts in TV serials and is a popular face on a news channel.
- 5) **MADHU BAI KINNAR¹⁹**- Madhu was disowned by her parents and expelled from home. However, destiny had other things in store for her. She became the first citizen of Raigarh in Chhattisgarh. She earns her living as a folk dance performer.

¹⁵ https://En.Wikipedia.Org/Wiki/Laxmi_Narayan_Tripathi

¹⁶ https://En.Wikipedia.Org/Wiki/Gauri_Sawant

¹⁷ BY VIJI ATHREYE, THE LIFE OF TRANSGENDERS IN INDIA, (NOVEMBER 27,2015), <https://Www.Mapsofindia.Com/My-India/Government/The-Life-Of-Transgenders#>

¹⁸ BY VIJI ATHREYE, THE LIFE OF TRANSGENDERS IN INDIA, (NOVEMBER 27,2015), <https://Www.Mapsofindia.Com/My-India/Government/The-Life-Of-Transgenders#>

¹⁹ BY VIJI ATHREYE, THE LIFE OF TRANSGENDERS IN INDIA, (NOVEMBER 27,2015), <https://Www.Mapsofindia.Com/My-India/Government/The-Life-Of-Transgenders#>

- 6) **BHARATHI**²⁰ - Again disowned by parents, Bharathi had a tough life after being ostracized by the society. But sheer will power and grit saw her change the course of her life. She baptized to Christianity, completed a bachelor's degree in Theology, and today she is a pastor at the Evangelist Church of India, and conducts weddings.
- 7) **MANABI BANDYOPADHYAY**²¹ - Manabi is the author of a bestseller novel, Endless Bondage, based on hijras (eunuchs). She is an associate professor in Bengali at Vivekananda Satobarshiki Mahavidyalaya and is soon slated to take charge as the principal of Krishnanagar Women's College.
- 8) **JOYITA MONDAL**²² - Mondal comes from a traditional Hindu household and suffered a lot of discrimination in her childhood because of her gender identity. She dropped out of school after class 10th, slept at bus stands and begged on streets. Later, on she worked for the upliftment of the transgender community, simultaneously; she also completed her studies and got a degree in law. In, 2010 she was the first transgender from her district to get a voter ID. She is the first transgender judge of a Lok Adalat and a social worker from West-Bengal.
- 9) **SATHYASRI SHARMILA**²³ - She became India's first transgender lawyer. She hails from Tamil Nadu who did not have an easy journey, as she was subject to torture and abuse on account of her gender. She envisions a society where people from her community can serve at higher positions across the country.
- 10) **AISHWARYA PRADHAN**²⁴ - India's first transgender civil servant. She was humiliated by her school teacher and later sexually abused by her peers in a college hostel. She hails from Odisha. She is now serving in Odisha Financial Services as a Commercial Tax Officer at Paradip Port Township. She has done her PG in Public Administration and has also studied English Journalism from Indian Institute of Mass Communication.

²⁰ BY VIJI ATHREYE, THE LIFE OF TRANSGENDERS IN INDIA, (NOVEMBER 27,2015), <https://www.mapsofindia.com/My-India/Government/The-Life-Of-Transgenders#>

²¹ BY VIJI ATHREYE, THE LIFE OF TRANSGENDERS IN INDIA, (NOVEMBER 27,2015), <https://www.mapsofindia.com/My-India/Government/The-Life-Of-Transgenders#>

²² 8 INDIAN TRANSGENDERS WHO WERE THE FIRSTS IN THEIR FIELDS, (JULY4,2018,15:01 IST), <https://www.indiatoday.in/Education-Today/Gk-Current-Affairs/Story/List-Of-Transgenders-Firsts-Who-Made-It-Big-In-Their-Fields-1276415-2018-07-03>

²³ 8 INDIAN TRANSGENDERS WHO WERE THE FIRSTS IN THEIR FIELDS, (JULY4,2018,15:01 IST), <https://www.indiatoday.in/Education-Today/Gk-Current-Affairs/Story/List-Of-Transgenders-Firsts-Who-Made-It-Big-In-Their-Fields-1276415-2018-07-03>

²⁴ DARPAN NEWS DESK IANS, ODISHA'S FIRST TRANSGENDER CIVIL SERVANT AISHWARYA PRADHAN PLANS MARRIAGE AFTER 377 ORDER, (10TH SEPTEMBER 2018), <https://www.darpanmagazine.com/news/india/odishas-first-transgender-civil-servant-aishwarya-pradhan-plans-marrriage-after-377-order/>

- 11) **PRITHIKA YASHINI**²⁵- She became the first transgender sub-inspector though she was declared fail by 1 mark. She got her score re-evaluated in the physical examination and came out clear with flying colours.
- 12) **MUMTAZ**²⁶- She is a social worker, first transgender who came out to contest elections in Punjab.
- 13) **SHABNAM MAUSI**²⁷- She was not supported by her family, she wasn't able to attend school, yet she learnt almost 12 different languages. She has taken a tough road in life. She is the first transgender who became an MLA.
- 14) **SHABI**²⁸- She is the first transgender soldier who joined the naval base in Vishakhapatnam after undergoing surgery in 2016 of sex reassignment.
- 15) **JIYA DAS**²⁹- She is the first transgender operation theatre or OT technician. Earlier, she even danced on a gun point in U.P.
- 16) **RANI KIRAN**³⁰- She has scripted history and become India's first five-star rated cab driver for Uber, a multinational transport company. She was earlier an auto-rickshaw driver but faced lack of trust and support from society.

V. CONCLUSION

Each and every person is unique and an integral part of this Universe. People are very judgmental now-a-days, they judge so easily and quickly that they do not even think about the feelings of others. They hurt others without even thinking for once. They think of themselves as superior, no one is above them. It is wrong to discriminate between people who have some different characteristics in them. This shows how the problems are faced by the transgender. More awareness programmes can be conducted in schools and colleges so, that young

²⁵ PRAMOD MADHAV, PRITHIKA YASHINI ,INDIA'S FIRST TRANSGENDER POLICE OFFICER, WINS ACCEPTANCE, (4TH APRIL ,2017,13:31 IST), <https://www.indiatoday.in/India/Story/Prithika-Yashini-India-First-Transgender-Police-Officer-Tamil-Nadu-969389-2017-04-04>

²⁶ 8 INDIAN TRANSGENDERS WHO WERE THE FIRSTS IN THEIR FIELDS, (JULY4,2018,15:01 IST), <https://www.indiatoday.in/Education-Today/Gk-Current-Affairs/Story/List-Of-Transgenders-Firsts-Who-Made-It-Big-In-Their-Fields-1276415-2018-07-03>

²⁷ 8 INDIAN TRANSGENDERS WHO WERE THE FIRSTS IN THEIR FIELDS, (JULY4,2018,15:01 IST), <https://www.indiatoday.in/Education-Today/Gk-Current-Affairs/Story/List-Of-Transgenders-Firsts-Who-Made-It-Big-In-Their-Fields-1276415-2018-07-03>

²⁸ 8 INDIAN TRANSGENDERS WHO WERE THE FIRSTS IN THEIR FIELDS, (JULY4,2018,15:01 IST), <https://www.indiatoday.in/Education-Today/Gk-Current-Affairs/Story/List-Of-Transgenders-Firsts-Who-Made-It-Big-In-Their-Fields-1276415-2018-07-03>

²⁹ 8 INDIAN TRANSGENDERS WHO WERE THE FIRSTS IN THEIR FIELDS, (JULY4,2018,15:01 IST), <https://www.indiatoday.in/Education-Today/Gk-Current-Affairs/Story/List-Of-Transgenders-Firsts-Who-Made-It-Big-In-Their-Fields-1276415-2018-07-03>

³⁰ SHWETA SENGAR, BREAKING BARRIERS, RANI KIRAN BECOMES INDIA'S FIRST TRANSGENDER FIVE-STAR RATED CAB DRIVER, (6TH SEPTEMBER, 2019, 12:57 IST), <https://www.indiatimes.com/News/India/Breaking-Barriers-Rani-Kiran-Becomes-India-S-First-Transgender-Five-Star-Rated-Cab-Driver-375155.html>

upcoming generation will be able to understand and accept the transgender instead of avoiding them due to their fears and unexamined beliefs³¹. It is a biological change which makes people to behave differently because of which they are excluded from the society. They face discrimination, disrespect, unwanted attention, they are physically and verbally abused, and many more such problems they face in each and every phase of their life³². Although, they are included as a third gender in our society by the law, orders of government but still the society and the people are not ready to accept them. How can people do such inhumane things? Sometimes they really cross all their boundaries. People should keep themselves in their places and should think how difficult they have caused their life. This is some or the other kind of torture only which has caused their life to be very difficult to live. Without any mistake on their part, they are getting boycotted and punished by the society just because of some unnecessary superstitions things. Government cannot do anything or there is no point in making rules, regulations or policies in such cases unless and until people of the society will not obey them. If a rule or regulation is made or passed it is expected from the people of the society to follow it but they are so much against this that they don't even follow and this turns bad for the transgender as they still face the criticism from the society and its members. Such a harsh reality it is. Why cannot people, the society accept them? It is time for the people of our society to realize that every individual in this country be it transgender has equal rights and privileges. The policy of "live and let live" should be followed³³. We must think on this issue. If men have right, if women have right, then why not transgender should have right? Even they are humans. A deep analysis should be done on this as it is a serious issue. Overall, it was such a good experience and gained knowledge while writing article on this topic.

³¹ [Http://Www.Novapdf..Com/](http://Www.Novapdf..Com/)

³² DR. KHUSHBOO R. HOTCHANDANI, PROBLEMS OF TRANSGENDER IN INDIA: A STUDY FROM SOCIAL EXCLUSION TO SOCIAL INCLUSION, VOL.4, IRJHRSS, PG-73.

³³ BY VIJI ATHREYE, THE LIFE OF TRANSGENDERS IN INDIA, (NOVEMBER 27,2015), <https://Www.Mapsofindia.Com/My-India/Government/The-Life-Of-Transgenders#>